IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Hari Mohan. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1303/2006.

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Date of Order: December 04, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Devi Lal R. Vyas, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Sandeep Mehta, for non-petitioner No.2, the first informant.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner seeks quashing of criminal proceedings in Criminal Case No. 138/2004, State Vs. Hari Mohan, instituted against the petitioner on a report lodged by non-petitioner No.2 Sunil Bhansali.

I have heard learned counsel for the parties.

Learned counsel for the parties submit that the parties have compromised the matter and compounded the offence under Section 408 IPC. The offence under Section 408 IPC is compoundable with the person who is the owner of the property, in respect of which the breach of trust has been committed.

In the instant case, the alleged breach of trust is with regard to certain goods. Though the compounding of offence is permissible where the value of the property does not exceed Rs.2000/- but since in the instant case, the value of the property has not been gone into by the trial Court and the parties invoked the inherent jurisdiction of this Court seeking permission for compounding the offence and the offence has been compounded by filing a compromise before this Court.

The first informant/non-petitioner No.2 and the petitioner are present in the Court and they have been identified by their respective counsel. First informant/non-petitioner No.2 Mr. Sunil Bhansali has been identified by his counsel Mr. Sandeep Mehta.

The compromise filed before this Court has been verified by the Deputy Registrar (Judicial). From a perusal of the compromise, it is clear that the first informant/non-petitioner No.2 and the accused-petitioner have amicably settled the matter by entering into a compromise and, therefore, the first informant/non-petitioner No.2 has compounded the offence and submits that he does not wish to continue the prosecution and prosecute the accused-petitioner on the report lodged by him. The first informant/non-petitioner No.2 also states that if the prosecution against the petitioner is terminated by compromise, he has no objection. The parties have also stated in the

application filed under Section 320 Cr.P.C. seeking permission to compound the offence and compounding the offence and the fact that both the parties agreed that the criminal proceedings against petitioner Hari Mohan shall stand terminated in view of the fact of compromise and that none of the parties shall be entitled to take any action, either civil or criminal, against each other. This shows that on being persued by elderly and respectful persons, the parties have voluntarily compromised the matter and their remains no dispute between them with regard to the report lodged by the first informant/non-petitioner No.2 and they wish to live in a cordial atmosphere by resolving the dispute whatever they had.

Keeping in view the intention of the parties and the fact that the parties have compromised the matter and the first informant/non-petitioner No.2, who is the owner of the property, in respect of which the breach of trust was alleged, compounded the offence by filing a compromise which has been verified by the Deputy Registrar (Judicial), in my view, no useful purpose would be served in allowing the criminal proceedings against the petitioner, particularly when no evidence is likely to be given by the first informant/non-petitioner No.2 against the petitioner. Since the parties have settled the matter amicably and wish to maintain cordial relations by resolving the differences, if any, they had,, in my view, to secure the ends of justice, the

compromise deserves to be accepted and it is in the fitness of things and also in the interest of justice, to permit the parties to compound the offence. The effect of compounding the offence, in view of the provision of sub-section (8) of Section 320 Cr.P.C., shall be acquittal of the accused-petitioner, with whom the offence has been compounded.

In this view of the matter, the criminal miscellaneous petition is allowed. The accused-petitioner is acquitted of the of the charge under Section 408 IPC on having compounded the and the proceedings against the accused-petitioner Hari Mohan S/o Magh Dutt Bohrahim in Criminal Case No. 138/2004, and the orders issued thereunder, including the issuance of standing warrants and proceedings under Sections 82 and 83 Cr.P.C., stand quashed. S.B. Criminal Misc. Application No.733/2006 is accordingly disposed of.

(H.R. PANWAR), J.

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